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B-76061 May 14, 1948

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The Director, The Bureau of the Budget.

My dear Mr. Webb:

Reference is made to letter dated April 30, 1948, from the Acting Director, Bureau of the Budget, requesting an expression of the views of this Office as to to the time limitation upon the exercise of authority to enter into contracts in the following cases:

"First, where to appropriation language includes additional authority to enter into contracts for the purposes of the appropriation, without specifying a time limit upon such authority, and where the appropriation itself is available only for the particular fiscal year covered by the appropriation act.

"Second, where the appropriation language includes additional authority to enter into contracts for the purposes of the appropriation, without specifying a time limit upon such authority, and where the appropriation is available for a specified period extending beyond the fiscal year covered by the appropriation act--for example, a 1949 appropriation act containing an appropriation made available specifically until June 30, 1950.

"Third, where the appropriation language includes additional authority to enter into contracts for the purpose of the appropriation, without specifying a time limit upon such authority, and where the appropriation is available until expended.

"Fourth, where a paragraph in an annual appropriation act provides authority to enter into contracts which is not connected with any appropriation carried in such act, and without specifying a time limit upon such authority."

It should be stated at the outset that in abstract situations such as here presented, the views expressed thereon necessarily must be general in nature and subject to qualification in particular cases. Where specific language appearing in an appropriation act requires construction, aid may be sought from the legislative history thereof, including the hearings and debates thereon in arriving at a determination as to what was intended by the Congress. Nothing of that nature is available here. However, it may be stated that as a general proposition contract authorizations appearing in appropriation acts are coextensive with the appropriations in connection with which they appear. That is to say, the period during which the appropriation remains available for obligation constitutes the period during which the authority to contract may be

exercised. There appears a reasonable basis for such conclusion. It might be concluded that since the authority to enter into contracts is contained in an annual appropriation act, in the absence of language to the contrary, the authority is limited in all cases to the particular fiscal year covered by the act. However, it is more reasonable to assume that where the Congress makes an appropriation for a particular purpose and makes provision for additional authority to enter into contracts for the same purpose, it intends that the authority be exercised to the same extent that the appropriation may be availed of.

Thus in the first and second situations above described the authority to enter into contracts would extend over one and two fiscal years respectively.

In the third situation where the appropriation is available until expended all time limits as to when the funds may be obligated and expended have been removed. In other words, the funds remain available to the department or agency concerned until the last dollar is expanded. In order to be consistent with the views expressed in respect of the first two situations, the authority to enter into contracts in the third situation should be viewed as continuing in force so long as any funds remain available to the department or agency involved. For all practical purposes there would be exercised so long as the department or agency saw fit to retain control of any portion of the appropriation. Of necessity, however, there would have to be applied a rule of reason.

In the fourth situation where the authority to enter into contracts is contained in an annual appropriation act without reference to an appropriation carried in such act and where there is no expressed intention otherwise, it must be concluded that the Congress intended to provide for the needs of the department or agency concerned during the fiscal year involved and that the authority is limited to that particular fiscal year.

Respectfully,

Lindsay C. Warren Comptroller General of the United States